

January 27, 2000

Via Hand Delivery

Lawrence M. Noble, Esq.
Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Re: MUR 4954

Dear Mr. Noble:

This is in response to the December 17, 1999, Federal Election Commission ("FEC" or "Commission") letter notifying Bush for President, Inc. and David Herndon as Treasurer ("collectively BFP") of a complaint filed by Forbes 2000, Inc. ("Forbes 2000") in the above-referenced matter. The complaint is merely the latest in a series of frivolous complaints Forbes 2000 has filed against BFP and Republican organizations in an effort to generate political controversy. For the reasons set forth below, the Commission should find there is no reason to believe that BFP committed a violation and should dismiss the complaint.

The complaint alleges there is reason to believe that the Ulster County Republican Committee and BFP violated the Federal Election Campaign Act of 1971, as amended ("FECA" or "Act") and the Commission's regulations when certain petition papers were circulated for delegates to qualify for the presidential primary ballot in New York state.

As the complainants are aware, specific Commission regulations govern convention delegate candidate activities and exempt many those activities from the Act's prohibitions and restrictions. Upon information and belief, all of the petition circulation activities referenced in the complaint were conducted by a delegate candidate on behalf of his candidacy and were paid for by the delegate candidate out of his personal funds. Therefore, all of the activities at issue were bona fide delegate candidate activities and fell within the delegate candidate exemptions in the FEC's regulations.

The Act allows individuals running for delegate supportive of a Presidential candidate to raise and spend funds outside of the limits raised and spent by any Presidential campaign, as long as certain rules are followed. See 11 C.F.R. § 110.14. An

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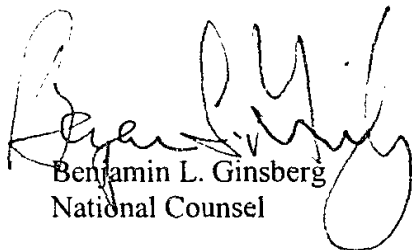
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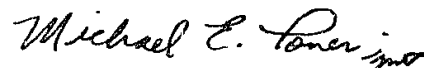
individual may spend an unlimited amount of his or her own money to become a delegate, and the delegate does not have to report that money as long as the "payments for any communications advocate[] only the delegate's selection." 11 C.F.R. §110.14(e). The potential delegate may also pay "for travel and subsistence during the delegate selection process." Id. An individual running for delegate is not required to report contributions to his or her efforts to become a delegate, 11 C.F.R. § 110.14(d)(3), or expenditures made to advocate only his or her selection. 11 C.F.R. § 110.14(e)(2). All funds for delegate selection activities must come from sources permissible under FECA. 110.14(c)(2).

Furthermore, a person seeking to become a delegate may spend an unlimited amount on campaign materials such as pins, bumper stickers, handbills, brochures, posters and yard signs that both advocate his or her selection and refer to that potential delegate's Presidential candidate. 11 C.F.R. § 110.14(f). Distribution of these materials must be by volunteers and not by commercial vendors or hired services. These expenditures are not considered contributions to the Presidential candidate, are not subject to the overall or state spending limits, and do not have to be reported by the potential delegate. Id.

In light of the foregoing, upon information and belief all of the activities at issue were bona fide delegate candidate activities and were fully permissible under the Commission's regulations. Therefore, the Commission should find that there is no reason to believe that BFP violated the Act and should dismiss the complaint.


Benjamin L. Ginsberg
National Counsel

Respectfully submitted,


Michael E. Toner
General Counsel